

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	CG Docket No. 02-278
Rules and Regulations Implementing the)	
Telephone consumer Protection Act of 1991)	

COMMENTS OF NEUSTAR, INC.

NeuStar, Inc. (“NeuStar”) submits the following comments in response to the Federal Communication Commission’s (“FCC” or “Commission”) Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceeding.¹ In the FNPRM, the Commission seeks further comment on the restrictions under the Telephone Consumer Protection Act of 1991 (the “TCPA”)² and specifically seeks comment on the availability of technological tools today that would allow telemarketers to determine which numbers have been ported to wireless carriers.

NeuStar, in its role as the neutral third party administrator of the Number Portability Administration Center (“NPAC”) and pursuant to its contract with the North American Portability Management, LLC (the “NAPM LLC”)³ manages information that will support the telemarketing industry’s efforts to comply with the restrictions on

¹ *In the Matter of Rules and Regulations Implementing the controlling the Assault of Non-solicited Pornography and Marketing Act of 2003, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, CG Docket No. 04-53, CG Docket No. 02-278, FCC 04-52 (rel. March 19, 2004). These comments focus only on the FNPRM associated with CG Docket No. 02-278 implementing the Telephone Consumer Protection Act of 1991.

² Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (1991), *codified at* 47 U.S.C. Sec. 227 *amending* Title II of the Communications Act of 1934, 47 U.S.C. Sec. 201 *et seq.*

³ NeuStar serves as the NPAC administrator pursuant to its contract with the NAPM LLC. The NAPM LLC is a group of seven regional LLCs, each comprised of members of the telecommunications industry.

autodialed and prerecorded message calls to wireless numbers that were recently ported from a wireline service provider to a wireless service provider. Specifically, telemarketers must be able to receive data that will indicate which numbers within a range of numbers have been ported to a wireless provider from a wireline provider. By accessing certain NPAC data, telemarketers will be able to integrate the necessary information into their internal systems.

Over the past several months, NeuStar and representatives of the telemarketing industry have been working together to define the data product that is needed to ensure compliance with the TCPA. In response to input and specific requests from the telemarketing industry, NeuStar is currently developing a service that will be made available to subscribers in a web-based format.

This service, the “Intermodal Ported TN Identification Service”, will consist of files updated on a daily and cumulative basis. The service will be made available to subscribers in a web-based format. As currently contemplated, there will be two files available. Of the two files developed, one will contain data reflecting numbers ported from wireline to wireless services and the second will contain data reflecting numbers ported from wireless to wireline services. The two files will be accessible through a secure, password protected website by any authorized subscriber. Any entity subscribing to this Intermodal Ported TN Identification Service will pay an annual fee to download the data files from the website according to that entity’s business needs and practices.

At the same time, NeuStar and the NAPM LLC have been working together to develop the underlying agreements needed to authorize, produce and offer this service. On April 7, NeuStar and the NAPM LLC entered into the agreements necessary to enable

NeuStar to offer the Intermodal Ported TN Identification Service to the telemarketing industry.

The NPAC contains competitively sensitive, confidential and proprietary information supplied by service providers. As such, all users of NPAC data, including any entity that elects to purchase the Intermodal Ported TN Identification Service directly from NeuStar or on a resold basis from another entity, is required to sign user agreements affirming that the information they obtain from the NPAC will be used exclusively for purposes of compliance with the TCPA and the FCC's rules implementing the TCPA.⁴ Typically, each NPAC user must sign an agreement affirming that the information obtained from the NPAC will be used exclusively for rating, routing, and billing purposes. As we have noted on several occasions,⁵ the safeguards put in place by NeuStar and the NAPM LLC to restrict data use to TCPA compliance must be agreed to by *any* user of the Intermodal Ported TN Identification Service. A commitment to adhere to the data use restrictions is necessary to protect and preserve the highly proprietary data contained in the NPAC.

CONCLUSION

The information sought by the FCC and the telemarketing industry to allow compliance with the TCPA restrictions on autodialing wireless phone numbers is

⁴ The TCPA and the FCC's rules, including those set forth at 47 C.F.R. Sec. 64.1200, prohibit the initiation of any call using an automatic telephone dialing system or an artificial or prerecorded message to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call. *FNPRM* at para. 43.

⁵ See e.g., *Ex Parte Letter* from Ian D. Volner, Venable, LLP, Counsel for DMA, Jerry Cerasale, The Direct Marketing Association, Mindy Ginsburg, NeuStar, Inc., and E. Molly Hemsley, Newspaper Association of America to Marlene Dortch, Secretary, FCC (Dec. 18, 2003), *Ex Parte Letter* from Mindy J. Ginsburg, NeuStar, Inc. to Marlene Dortch, Secretary, FCC (Nov. 21, 2003) and *Ex Parte Letter* from Kimberly Wheeler Miller, NeuStar, Inc. to Marlene Dortch, Secretary, FCC (June 4, 2003).

available in the NPAC. NeuStar, as the NPAC Administrator, and with the cooperation of the NAPM LLC and the telemarketing industry, has taken the steps needed to provide the Intermodal Ported TN Identification Service, an efficient and cost effective solution to be made available in a format that will continue to protect confidential service provider and customer proprietary information.

Respectfully submitted,

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